



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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09/410958

EXAMINER

ART UNIT	PAPER NUMBER
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8

DATE MAILED:

INTERVIEW SUMMARY

All participants (applicant, applicant's representative, PTO personnel):

(1) Phuong Bui (3) _____
(2) Crystal Shore (4) _____

Date of Interview 10/16/02

Type: ☒ Telephonic ☐ Personal (copy is given to ☐ applicant ☐ applicant's representative).

Exhibit shown or demonstration conducted: ☐ Yes ☒ No If yes, brief description: _____

Agreement ☐ was reached. ☒ was not reached.

Claim(s) discussed: Cl. 3

Identification of prior art discussed: None

Description of the general nature of what was agreed to if an agreement was reached, or any other comments: The previous restriction should be amended to include "light inducible promoter" as invention F. This change will be reflected in the next Office action.

(A fuller description, if necessary, and a copy of the amendments, if available, which the examiner agreed would render the claims allowable must be attached. Also, where no copy of the amendments which would render the claims allowable is available, a summary thereof must be attached.)

1. ☐ It is not necessary for applicant to provide a separate record of the substance of the interview.

Unless the paragraph above has been checked to indicate to the contrary, A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION IS NOT WAIVED AND MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a response to the last Office action has been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW.

2. ☐ Since the Examiner's interview summary above (including any attachments) reflects a complete response to each of the objections, rejections and requirements that may be present in the last Office action, and since the claims are now allowable, this completed form is considered to fulfill the response requirements of the last Office action. Applicant is not relieved from providing a separate record of the interview unless box 1 above is also checked.

Examiner Note: You must sign this form unless it is an attachment to another form.

10/16/02 Phuong Bui

Manual of Patent Examining Procedure, Section 713.04 Substance of Interview must Be Made of Record

In the presence of the examiner, the substance of any face-to-face or telephonic interview with respect to an application must be made of record in the application. Whether or not an interview with the examiner was held at the interview.

§ 133 Interviews

It is the examiner's duty to make a record of any face-to-face or telephonic interview with an applicant or his attorney, or a complete written statement of the reasons presented at the interview as warranted by the facts, to be filed by the applicant. An interview does not remove the necessity for response to Office action as specified in §§ 1.111-1.136 (35 U.S.C. 132).

§ 132. Business to be transacted in writing. All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys, if agents of the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No action will be paid for any alleged oral promises, stipulations, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant, the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete a two-sheet carbon interfiled Interview Summary Form for each interview held after January 1, 1978 where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks in the handwritten form using a ball point pen. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below.

The Interview Summary Form shall be given an appropriate paper number, placed in the right hand portion of the file, and listed on the "Contents" list on the file wrap per the docket and should regularly be updated to reflect interviews. In a personal interview, the duplicate copy of the Form is removed and given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephonic interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or other circumstances dictate, the Form should be mailed promptly after the telephonic interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Serial Number of the application
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (personal or telephonic)
- Name of participant(s) (applicant, attorney or agent, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the claims discussed
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed to being allowable). (Agreements as to allowability are tentative and do not restrict further action by the examiner to the contrary.)
- The signature of the examiner who conducted the interview
- Names of other Patent and Trademark Office personnel present.

The Form also contains a statement reminding the applicant of his responsibility to record the substance of the interview.

It is desirable that the examiner only remind the applicant of his obligation to record the substance of the interview in each case unless both applicant and examiner agree that the examiner will record same. Where the examiner agrees to record the substance of the interview, or when it is adequately recorded on the Form or in an attachment to the Form, the examiner should check a box at the bottom of the Form informing the applicant that he need not supplement the Form by submitting a separate record of the substance of the interview.

It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview:

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted;
- 2) An identification of the claims discussed;
- 3) An identification of specific prior art discussed;
- 4) An identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the examiner;
- 5) A brief identification of the general thrust of the principal arguments presented to the examiner. The identification of arguments need not be lengthy or elaborate. A verbal or written, detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature of the thrust of the principal arguments made to the examiner can be understood in the context of the application file. (Of course, the applicant may desire to emphasize and fully describe these arguments when he feels were or might be persuasive to the examiner.)
- 6) A general indication of any other pertinent matters discussed; and
- 7) If appropriate, the general result or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to only remind the applicant to record the substance of an interview if the record is not complete or accurate; the examiner will give the applicant an opportunity to make a supplementary entry in the file in order of any particular response, whichever is forgotten to complete the response and the relevant amendment of the application (35 U.S.C. 132(c)).

Examiner to Check for Accuracy

Applicant's summary of what took place at an interview is used to carefully check to determine the accuracy of any argument or statement attributed to the applicant during the interview. If a material inaccuracy with respect to the question of patentability is pointed out in the next Office letter, if the statement is attributable to either the applicant or the examiner, the examiner should send a letter setting forth his or her version of the statement attributed to him. If the record is complete and accurate, the examiner should place the indication "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.